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PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Written statement* submitted by Europe-Third World Centre, a non-governmental organisation in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Changing Asylum and Immigration Policies, the Threat to Democracy in the European Union after September 11 and the Situation of Kurdish Refugees in the UK

As a non-governmental organization engaged in human rights issues that impact the lives of the dispossessed and marginalized in different parts of the world, the Europe-Third World Centre (CETIM) expresses grave concern that changes in asylum and immigration policies in the European Union in light of September 11 are severely undermining the fundamental rights of refugees and migrants. In addition, these policies while eroding European democratic tradition and values are also fuelling racist sentiments from which ultra-conservative political parties and organizations of the extreme-Right in many parts of Europe derive their growing strength. CETIM also wishes to highlight the particular case of Kurdish refugees in the UK whose situation is likely to become more and more precarious in view of these developments. The concerns that CETIM will be raising in this statement reinforce those already expressed at the 58th session of the Commission on Human Rights by the UN High Commissioner, Mary Robinson, when she said that "excessive measures have been taken in several parts of the world that suppress and restrict individual rights including privacy, freedom of thought, presumption of innocence, fair trial, the right to seek asylum, political participation, freedom of expression and peaceful assembly."1

A Democratic Deficit

In December last year, the EU Council agreed on a framework decision and a common position on combating terrorism. The framework decision defines and instructs member states to include as terrorist offences "intentional acts, by their nature and context, which may be damaging to a country or an international organization."2 While a (non-binding) Declaration was also issued ensuring that the framework decision does not implicate those who are merely exercising their right to legitimate dissent, the definition of terrorism, which was adopted, is so broad and all-encompassing that it does not give any amount of assurance that issue-based protests or trade union activities would not come under the purview of this definition. This scepticism is not completely unfounded in the face of EU plans to extend the Schengen Information System (SIS) to create a database of "suspected" activists or "trouble-makers," which could be retrieved by police, paramilitary and other security organizations when there is an assumed "threat" for a planned demonstration in an EU member country. To augment these, discussions are going on for an extension of the powers of Europol to incorporate public order and surveillance of protests as well as the creation of an EU force of riot police. These plans, if they materialize, would be tantamount to a criminalization of protest while putting an "alert" on a particular person who is assumed to be a "trouble-maker" would assign a "quasi criminal record3 on those who, based on their criteria, are assumed to be "trouble-makers."

Obviously, a lot of fundamental questions have to be raised including those that pertain to data protection and how data will eventually be used but even a cursory look at these developments would highlight the fact that the democratic values on which European political culture is founded are under serious threat. The suppression of the freedom of movement, the right to legitimate political dissent and other human rights cannot be sacrificed in the name of combating terrorism. Instead, these rights need to be upheld while the issues underlying political protest and unrest such as poverty and inequality, unjust and exploitative economic arrangements, etc, need to be comprehensively addressed.

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1 Refer to http://www.statewatch.org/news2002/mar/12unhchr.html
2 Refer to http://www.statewatch.org/news/2001/dec/07terrdef.html
3 http://www.statewatch.org/news/2001/nov/19sis.htm

War on Immigration

The off-shoot of the war against terrorism is reflected in the shifting policies relating to immigration and asylum which zero in on deterrence and the fight against human trafficking. The attitude of policy-makers towards the displacement of people is that of "hostility and rejection"4 and a paranoid fear that all illegal immigrants and refugees could be linked to terrorist organizations who enter the country in order to create havoc and undermine national security. While pursuing an aggressive line to combat human trafficking, on the one hand, and a complete disregard for the plight of refugees and migrants, on the other, both trafficker and trafficked have effectively been lumped together as part of a criminal conspiracy. Driven into desperation, with no legitimate means open to them, refugees and immigrants are forced to seek drastic means even if in the end this might spell their death as what happened to the women and children who were thrown into the Atlantic by traffickers to avoid detection or the 58 Chinese who froze to death inside a refrigerated lorry5. While international law upholds the right of migrants to claim asylum regardless of their means of entry, states have also been quick to denounce "illegal" entries as violating domestic immigration laws and, therefore, as criminal deeds.

Deterrence instead of any humanitarian consideration seems to be the rule rather than the exception. The lack of protection measures, the policy of dispersal and the voucher system, surveillance as well as the existence of detention centres in many countries in Europe all account for deterrent policies. Below are some examples:
- "In the Netherlands, where a special police unit investigating human trafficking has been extended under the Action Plan on Terrorism and Security to research possible links with terrorism, biometric identification measures will be increasingly used for refugees and those seeking visas.
- In Germany, where the interior minister Otto Schilly has introduced a wide range of new measures aimed at asylum seekers and 'tolerated refugees', the Law of Obligatory Residence (which restricts asylum seekers from moving outside a designated area) has now been justified on the grounds that the 'restriction of the basic rights of asylum seekers is justified in order to protect national security and public order'.
- In the UK, home secretary David Blunkett, announcing new reception arrangements and the introduction of identity cards for asylum seekers, has stated that, in future, all asylum seekers will be tracked from arrival to removal because, in the past, terrorists have used the asylum system to gain entry to the UK.6"

The Tampere European Council summit in 1999 crystallized the European Union's goal of reducing drastically the number of refugees by imposing its asylum policy from the point of origin, effectively putting the "responsibility for the prevention of refugee movement to the asylum seeker's country of origin."7 This was further emphasized in the recently concluded European Council on 21 and 22 June 2002 in Seville when the Council decided that all EU agreements with non-EU states will "include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration."8 Related to this is the British Government's plan that effectively ties EU development aid to a country's record in cooperating in the crackdown on illegal immigrants. The imposition of the European Union's immigration controls on the Third

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4 Liz Fekete, The Emergence of Xeno-Racism, Institute of Race Relations, http://www.irr.org.uk/xenoracism/index.html
5 Ibid
6 Liz Fekete, Racism: The Hidden Cost of September 1, Institute of Race Relations, UK, 2002, p.3.
7 Ibid
8 EU Presidency Conclusions at the Seville European Council 22/22 June 2002, para. 33

World will be guaranteed through the application of sanctions, including agreements on aid and development assistance. A precedent already exists in that, in February 2000, £8.5 billion in aid and trade agreements between the EU, Africa, the Caribbean and Pacific were bound to "specific rules guaranteeing the repatriation and expulsion of people deemed to be 'illegal' within the EU."9

What all this means is that the war against terrorism has become a war waged against those who, by force of political and other circumstances, have been forced to seek refuge elsewhere outside of their own countries. In this context, refugees and migrants have become mere statistics in a migratory flow while their specific stories and experiences are entirely disregarded. The response to this flow is outright rejection and repatriation regardless of whether a refugee has been condemned by the State or is under threat of torture and inhumane treatment. While the EU itself admits that it is poverty and injustice that constitute push factors for the migration of peoples, it is opting for an easy way out by choosing to ignore these problems. Furthermore, by strengthening the policies of deterrence, which were articulated in the preceding paragraphs, European Governments are preparing the ground that would make it possible for the far-right to launch more offensives against refugees and migrants as well as the emergence of racism within socially and economically disadvantaged communities.

The Situation of Kurdish Refugee Communities and Asylum Seekers

Part of the hysteria created by the aftermath of September 11 is reflected in the subsequent labelling and categorization of individuals and groups that are deemed to constitute threats to national security and are, therefore, "terrorists". On 2 May 2002, the Council of the European Union adopted by written procedure the inclusion of the Kurdistan Workers Party (PKK) in the EU list of terrorist groups. This decision was made in the face of persistent demands by the Turkish Government even though in 1999 the PKK has repeatedly declared a unilateral ceasefire and abandoned the armed struggle in favour of a democratic solution to the Kurdish question, which culminated in the establishment of the Kurdistan Freedom and Democracy Congress (KADEK) and the disbanding of the PKK. The implications of this move on the human rights of Kurdish refugees and asylum seekers is enormous despite the fact that, over the years, more than 4'000 villages have already been destroyed, more than 3 million people have been displaced and torture and involuntary disappearances have been routine practices by the Turkish military against suspected Kurdish activists, guerrillas and sympathizers of the Kurdish cause. These assaults on the Kurdish people continue unabated to this day.

The decision of the EU Council seems to be a critical point in an unfolding scenario that reflects a mounting disregard for the plight of Kurdish refugees and asylum seekers in the past two decades. A report published at the end of September 2001 argues that, already, in the 1980s, Kurdish refugees and asylum seekers in the UK (and Germany) have been "targeted" and "criminalized" by state and non-state actors and with increasing brutality10. This has been fuelled by the growing strength of far-right groups as well as racist and sensational propaganda by the tabloid press. Following are cases that highlight the "targeting" and "criminalization" of Kurdish refugee communities and asylum seekers in the UK:

- "In the beginning of May 2001, Barbara Roche, UK's Home Office Minister brazenly announced that immigration officers are now being openly permitted to officially discriminate against eight

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9 http://www.irr.org.uk/xenoracism/index.html

10 Desmond Fernandes, The Targeting and Criminalization of Kurdish Asylum Seekers and Refugee Communities in the UK and Germany, *Kurdish Exodus: From Internal Displacement to Diaspora*, Ahmed Foundation for Kurdish Studies, Massachusetts, USA, September 2001, p. 133.

nationalities, one of which was Kurdish." 11

- The UK's policy of dispersal has meant that refugees are pushed to some of the most deprived areas of the country, far from city centres, where no health, housing, counselling and educational provisions exist. The refugees in these places have become the target of brutal racist attacks and even murder. In the Sighthill area in Glasgow last year, there have been 70 racist assaults on Kurds and other refugees12.

- Under the pretext of investigating "Turkish terrorists" in London and elsewhere, special police units have placed Kurdish refugee communities under comprehensive surveillance13... while relatives in Turkey of people in Europe suspected of supporting the PKK are in grave danger of police raids, torture and death.14

Many more cases have been documented over the last twenty years but current legislation and tougher asylum and immigration policies in the EU and the UK will not ameliorate the precarious situation of Kurdish refugees and asylum seekers in Europe. On the contrary, the EU Council's latest move of denouncing the PKK as a terrorist organization, despite the changes in the PKK agenda and approach, could create even more serious repercussions.

In conclusion, CETIM calls on this Sub-Commission to:

- Urge the EU to uphold and guarantee that fundamental rights and freedoms are not sacrificed in the formulation of policies that govern the fight against terrorism and the preservation of security;

- Urge EU member states to honour agreements that have been made with respect to aid and development assistance and not to use these as conditions to compel Third World countries to "cooperate" in implementing European immigration controls;

- Urge the EU to respect the rights of refugees and migrants and ensure that humanitarian considerations are upheld before any decision to repatriate migrants and refugees is made;

- Adopt a resolution on the situation of Kurdish refugees and asylum seekers in Europe;

- Urge the EU Council to rethink its decision on including the PKK on the list of terrorist organizations in light of its dissolution and in view of the implications of this decision on Kurdish refugee communities and asylum seekers in Europe.

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11 Ibid, p. 146

12 Ibid, p. 147

13 Long, S. (1995) « M15, Special Branch and the Criminalization of Kurds in Britain, *Kurdistan Report,* No. 20, January-February 1995, p. 4

14 Rayne, T. (1994) « Kurds Targeted in Britain », *Kurdistan Report,* October-November 1994, p.40.